

WHAT YOU SHOULD KNOW ABOUT A FEDERAL PERMIT FOR NON-PURPOSEFUL EAGLE TAKE

A Federal permit for non-purposeful take of eagles authorizes disturbance or other take of eagles where the take is not the purpose of the activity and is necessary to protect an interest in a particular locality. You should review Title 50 Parts 10, 13, and 22.26 of the Code of Federal Regulations (CFR). You are responsible for reviewing and understanding these regulations before you request and accept a permit. These regulations can be found on our website at http://www.fws.gov/permits/ltr/ltr.shtml. Below are questions and answers regarding some of the fundamentals of an eagle non-purposeful take permit.

1. What is meant by "take" of eagles?

Under the Bald and Golden Eagle Protection Act, "take" is defined as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest or disturb." Most take authorized under this permit will be in the form of disturbance. "Disturb" is defined in regulations as "to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (50 CFR 22.3)

2. Can this permit be used for intentional take of eagles for any purposes?

No. This permit authorizes take only where the take cannot practicably be avoided in the course of an otherwise lawful activity.

3. What species of eagles can be disturbed or otherwise taken under this permit?

This permit may authorize take of either species of eagles protected by the Bald and Golden Eagle Protection Act (Eagle Act) (16 U.S.C. 668-668d): the bald eagle (*Haliaeetus leucocephalus*) and the golden eagle (*Aquila chrysaetos*).

4. Under what circumstances can eagles be taken under this type of permit?

The Eagle Act authorizes the Secretary to permit take of eagles "necessary for the protection of... other interests in any particular locality." This statutory language accommodates a broad spectrum of public and private interests (such as utility infrastructure development and maintenance, road construction, operation of airports, commercial or residential construction, resource recovery, recreational use, etc.) that might "take" eagles as defined under the Eagle Act. However, in all cases, the take must be *necessary* to protect the interest, meaning that the interest cannot be protected without taking eagles despite implementation of all practicable measures to avoid and minimize the impact to eagles. Also, take will not be permitted unless it is consistent with the goal of maintaining stable or increasing eagle populations.

5. Is a person who follows the National Bald Eagle Management Guidelines exempt from the requirement to obtain this permit?

No. The Guidelines are basic recommendations the Service has provided to help minimize the potential for disturbing bald eagles. However, those recommendations are fairly generalized and do not address every type of activity. Furthermore, variable on-site conditions, the temperament of individual eagles, and other factors, make it impossible to predict outcomes with certainty. Each situation is different. An activity that is generally assessed as likely to disturb eagles will not always disturb them, and the presence of a number of variables may affect the likelihood that take will occur. Because the Eagle Act requires

that a permit be issued in order for any bald eagle take to be authorized, the Service cannot "exempt" any activity that meets the definition of a "take." In addition, because the Management Guidelines were developed primarily to reduce disturbance, they contain few measures for avoiding or reducing injury or mortality.

6. Is post-activity monitoring required?

For permits for disturbance, depending on the magnitude of the anticipated disturbance, permittees may be required to provide basic post-activity monitoring by determining whether the nest site, communal roost, or important foraging area continues to be used by eagles for up to 3 years following completion of the activity for which the permit was issued. For permits for non-purposeful take other than disturbance, monitoring may be required to ascertain the level of take,

7. Do permittees have to file a report?

Unless the activity is covered by a management plan that contains separate, adequate monitoring protocols, permittees must submit an annual report containing all the information required by the Service Eagle Take Report Form (Form 3-202-15), which can be found at: http://www.fws.gov/forms/3-202-15.pdf.

8. What will the Service do with information gathered from the permittee monitoring?

The Service can use the information to help assess whether future activities may result in loss of one or more eagles, a decrease in productivity of bald or golden eagles, and/or the permanent abandonment or loss of a nest site, communal roost site, or important foraging area. This information will allow the Service to refine recommendations in future versions of eagle management guidelines regarding buffer distances, timing of activities, and other practices that minimize take of eagles. The data also may enable the Service to adjust the number of annual permits available in a Service region.

9. What is a programmatic permit and when is it required?

Programmatic take is generally defined as take that is recurring and not in a specific, identifiable timeframe and/or location. The specific regulatory definition is "take that (1) is recurring, but not caused solely by indirect effects, and (2) occurs over the long-term and/or in a location or locations that cannot be specifically identified."

Programmatic take permits may be issued to entities, such as electric utilities or transportation providers, that may currently take eagles in the course of otherwise lawful activities but who can work with the Service to develop and implement additional, exceptionally comprehensive measures ("advanced conservation practices" or "ACPs") to reduce take to the level where any remaining take is essentially unavoidable. A programmatic take permit may also be issued to State and Federal agencies that take eagles in the course of their routine operations if they adopt such advanced conservation measures. There is no requirement that a permit be programmatic; it is an option that is available in some circumstances. A programmatic permit can, and often will, cover other take in addition to programmatic take.

10. Will mitigation measures be required?

All permittees will be required to avoid and minimize the potential for take to the degree practicable, and for programmatic permits, to the point where take is unavoidable. Additional compensatory mitigation may be required for: (a) programmatic take and other multiple take authorizations; (b) disturbance associated with the permanent loss of a breeding territory or important traditional communal roost site; or (c) as necessary to off-set impacts to the local area population.

11. Does this permit authorize possession of eagles for any purpose?

No. This permit does not authorize collection of live or dead eagles. You must promptly notify the Service of any eagle(s) found injured or dead at the activity site, regardless of whether the injury or death resulted from your activity. The Service will determine the disposition of such eagles.

12. Do I need additional authorization from my State or tribal government to take eagles?

State, tribal and local governments may have their own regulations protecting eagles. Your federal permit is not valid unless you obtain and comply with all permits, licenses, or other authorizations required by these jurisdictions that apply to your activity with respect to eagles.

13. How long does it take to get a permit for non-purposeful take of eagles?

The time needed by the Service to process a complete permit application depends on the complexity and scope of the activity and associated take, whether tribal consultation is warranted, what other environmental analyses may be required, and other factors. An application is not complete unless the information requested in all its sections has been provided by the applicant, including all required attachments. In general, applicants may expect the following approximate permit processing times from the time we receive a complete application:

Standard permit 60 days
Standard or programmatic permit requiring an environmental assessment 4 to 6 months
Standard or programmatic permit with EIS 18 to 24 months

14. How do I renew my permit?

Except for programmatic permits, this type of permit is not typically subject to renewal considerations, because, in general, standard permits issued under these regulations authorize a limited amount of take, resulting from a specific activity that occurs within an identifiable time-frame. For that reason, permittees will not receive a renewal letter or form. If you wish to renew your permit, you must return the completed renewal to your Regional Migratory Bird Permit Office at least 30 days prior to the expiration of your permit and include copies of any other permits required by your State, tribe, or other jurisdiction. If we receive your renewal request at least 30 days prior to the expiration of your permit, your permit will remain valid beyond the expiration date for the activity authorized on your permit until a decision on your renewal is mad.(50 CFR 13.22). Applicants for renewal must satisfy all the issuance criteria of 50 CFR 22.26, including a demonstration that the take is still necessary to protect an interest in a particular locality.



Department of the Interior

Expires 08/31/2012 OMB No. 1018-0136 U.S. Fish and Wildlife Service

Federal Fish and Wildlife Permit Application Form

Return to: Migratory Bird Permit Office U.S. Fish and Wildlife Service

Type of Activity:

Eagle Take - Necessary to Protect Interests in a Particular Locality

Complete section A or R and sections C and D of this application. See attached Permit Application Instructions

A.	nete section A of B,			• •			P			
1.a. Last name:			Complete if applying as an individual 1.b. First name:				1.c. Middle name or initial: 1.d. Suffix			
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1.e Doing business as (dba):			2.a. Mailing Address (line 1):				2.b. Mailing Address (line 2):			
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2.c. Mailing Address (line 3):		3.a. City:			3.b County:			3.0	.c Province:	3.d. State:
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5.a. Principal officer - Last name		5.b	b. First name:			5.c. Mi	iddle nan	ne or ini	itial	5.d. Suffix
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5.e. Principal officer title:		6. 1	Describe the type	of business,	agency, or inst	titution and j	provide s	state of 1	incorporation:	
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7. Home telephone number: 8. Work telephone number		ne number:	ber: 9. Fax number:			10. E-r	10. E-mail address:			
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С			All app	olicants cor	nplete					
Do you currently have			al fish and wil	ldlife perm	its? (For si	mplification	on, all	license	es, permits, re	gistrations,
and certificates will be		-								
Yes If yes, list the number(s) of the most current permit you have held:										
2. Application fee: Enclose a check or money order payable to the U.S. Fish and Wildlife Service in the amount of \$500.00 (standard)										
or \$1,000 (programmatic) if you are applying for a new permit or \$150.00 (standard) or \$500 (programmatic) if you are requesting a substantive amendment of your existing valid permit. Federal, tribal, state, and local government agencies, and individuals and										
institutions acting on behalf of such agencies, are exempt from the application processing fee upon submission of a letter (on agency										
letterhead) certifying that the applicant is acting on behalf of the government agency (50 CFR 13.11(d)).										
3. Certification: I hereby co										
Regulations and the other applicable parts in subchapter B of Chapter I of Title 50. I certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal										
permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement nerein may subject me to the criminal penalties of 18 U.S.C. 1001.										
F	01.									
Signature (in blue in	k) of applicant/pe	erson respon	sible for permi	t. (No Phote	copies or sta	imped sign	atures)	Da	te of signature	(mm/dd/yyyy)

D. EAGLE TAKE (Eagle Act, 50 CFR 22.26)

An eagle take permit authorizes the disturbance or other take of eagles where the take results from but is not the purpose of an otherwise lawful activity. Permits are available to individuals, agencies, businesses, and other organizations. This permit does not authorize possession of any eagle or eagle parts. Please read "What You Should Know About A Permit for Eagle Take Necessary to Protect Interests in a Particular Locality" and the pertinent regulations at 50 CFR 22.26 before you sign and submit your application.

Please be as specific as possible in your responses to the questions below. We strongly recommend that you submit your application at least 60 days prior to the date you need your permit, as required by 50 CFR 13.11(c).

Provide the following information on a separate sheet of paper. Please be as specific as possible in your responses to the questions. Please do not send pages that are over 8.5"X11", videotapes, or DVDs.

- 1. A description of your proposed activity that will likely take eagles, including:
 - (A) A detailed description of the activity that will likely cause the disturbance or other take of eagles;
 - **(B)** The species and number of eagles that are likely to be taken and the likely form of that take (e.g.., disturbance, other take);
 - (C) Maps and digital photographs that depict the locations of the proposed activity, including the area where eagles are likely to be taken;
 - **(D)** For activities that are likely to disturb eagles (versus other take):
 - 1. Maps and digital photographs of the eagle nests, foraging areas, and concentration sites where eagles are likely to be disturbed by the proposed activity (including the geographic coordinates of the activity area and important eagle-use area(s) and the distance(s) between those areas);
 - 2. Whether or not the eagle use area is visible from the activity area, or if screening vegetation or topography blocks the view;
 - 3. The nature and extent of existing activities in the vicinity similar to that being proposed, and the distance between those activities and the important eagle use area(s);
 - (E) The date the activity will start and is projected to end;
 - **(F)** An explanation of what interests(s) in a particular locality will be protected by the take, including any anticipated benefits to the applicant or to the public;
 - **(G)** An explanation of why avoiding the take is not practicable, or for programmatic take, why it is unavoidable; and
 - **(H)** A description of measures proposed to offset the detrimental impact of the proposed activity on the regional eagle population.
- 2. You must retain records relating to the activities conducted under your permit for at least 5 years from the date of expiration of the permit. Please provide the address where these records will be kept.

3.	Have you obtained all required state, federal	or tribal	government approval(s) t	to conduct the activity you
	propose?			
	☐ If yes, provide a copy of the approval(s).		Have applied \square	Not required \square

Form 3-200-71 REV 09/09 Page 2 of 2

PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to the standard Permit Form 3-200 that must be completed as an application for a U.S. Fish and Wildlife Service permit. The General Permit Procedures in 50 CFR 13 address the permitting process. For simplification, all licenses, permits, registrations, and certificates will be referred to as a permit.

- Complete section A or B, and sections C and D of the application. Print clearly or type in the information. An incomplete or unclear application may cause delays in processing or may be returned to the applicant.
- Provide any required additional information or attachments outlined in section D of the application form. Be as complete and descriptive as possible. If there is any doubt as to the information's relevance, include it with the application.
- Sign the application in blue ink and send the original to the address at the top of the application. Faxes or copies of the original signature will not be accepted.
- Please plan ahead. Allow at least 60 days for your application to be processed (50 CFR 13.11). Some applications may take longer than 90 days to process. Applications are processed in the order they are received.
- Additional forms and instructions, as well as regulations, are available on the Internet at http://permits.fws.gov/.

Most of the application form is self-explanatory, but the following provides some assistance for completing the form.

COMPLETE EITHER SECTION A OR SECTION B:

- Section A. "Complete if applying as an individual" Enter the complete name of the responsible individual who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. All blocks must be completed. If you are applying as an individual but conducting permitted activities as a business, provide the name of the business. If you are applying on behalf of a client, the personal information must pertain to the client. A document evidencing power of attorney must be included with the application.
- Section B. "Complete if applying as a business, corporation, public agency, or institution" Enter the complete name and address of the business, agency, institution, or other organization that will be the permittee if a permit is issued. Give a brief description of the type of business or activity the applicant is engaged in, the name and phone number of the person in charge (i.e., principal officer), and if the company is incorporated, the state in which it is incorporated.

ALL APPLICANTS COMPLETE SECTION C:

- Block C.1 "Do you currently have or have you had any federal fish and wildlife permits? List the number(s) of your most current FWS or CITES permit or the number of the most recent permit if none are currently valid. (Do not list permits of others under which you acted as a subpermittee or agent.)
- Block C.2 "Application fee:" You must enclose a permit processing fee unless you are fee exempt. Consult the Application Processing Fee section on the last page. Make your check or money order payable to the "U.S. Fish and Wildlife Service" and attach it to the application form. If you are fee exempt, write "EXEMPT" in the fee block and attach proof of exempt status with your application.
- Block C.3

 "CERTIFICATION" The individual identified in Section A, the principal officer named in Section B, or person with a valid power of attorney (documentation must be included in the application) must sign and date the application in blue
 ink. This signature binds the applicant to the statement of certification. This means that you certify that you have read and understand the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application before signing.

ALL APPLICANTS COMPLETE SECTION D:

Provide any required additional information outlined in Section D of the application form. Be as complete and descriptive as possible. If there is any doubt as to the information's relevance, include it with the application.

In response to "Have you obtained all required state, federal or foreign government approval to conduct the activity you propose?" please be aware that there may be other requirements necessary to conduct this activity, such as local zoning requirements. If "yes," list the state, federal or foreign countries involved and type of document required. Include a copy of these documents with the application. If "no," indicate what steps you have taken to secure approval (use attachment if necessary). If you have applied for the documents, check the "have applied" box and list the state, federal or foreign countries involved and type of documents required. If the proposed activity is not regulated check "not required."

APPLICATION FOR A FEDERAL FISH AND WILDLIFE PERMIT

Paperwork Reduction Act and the Privacy Act - Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

- 1. The gathering of information on fish and wildlife is authorized by:
 - (a) Bald and Golden Eagle Protection Act (16 U.S.C. 668), Title 50, Part 22, of the Code of Federal Regulations (CFR);
 - (b) Endangered Species Act of 1973 (16 U.S.C. 1531-1544), Title 50, CFR Part 17;
 - (c) Migratory Bird Treaty Act (16 U.S.C. 703-712), Title 50, CFR Part 21;
 - (d) Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), Title 50 CFR Part 18
 - (e) Wild Bird Conservation Act (16 U.S.C. 4901-4916), Title 50, CFR Part 15;
 - (f) Lacey Act (18 U.S.C. 42); Injurious Wildlife, Title 50 CFR Part 16;
 - (g) <u>Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) (TIAS 8249); Title 50, CFR Part 23.</u>
 - (h) General Provisions, Title 50 CFR Part 10;
 - (i) General Permit Procedures, <u>Title 50 CFR Part 13</u>; and
 - (j) Wildlife (Import/export/transport), <u>Title 50 CFR Part 14</u>.
- 2. Information requested in this form is purely voluntary. However, submission of requested information is required in order to process applications for permits authorized under the above laws. Failure to provide all requested information may be sufficient cause for the U.S. Fish and Wildlife Service to deny the request. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed on the form.
- 3. Certain applications for permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383) will be published in the Federal Register as required by the two laws.
- 4. Disclosures outside the Department of the Interior may be made without the consent of an individual if the disclosure is compatible with the purposes for which the record was collected. (Ref. 68 FR 52611, September 4, 2003)
 - (a) To subject matter experts, state, federal, local, and foreign agencies for the purpose of obtaining advice relevant to making a decision on an application for a permit or when necessary to accomplish a FWS function related to this system of records.
 - (b) To the public as a result of publishing Federal Register notices announcing the receipt of permit applications for public comment or notice of the decision on a permit application.
 - (c) To federal, state, local, or foreign wildlife and plant agencies for the exchange of information on permits granted or denied to assure compliance with all applicable permitting requirements.
 - (d) Captive-bred Wildlife registrants under the Endangered Species Act for the exchange of authorized species, and to share information on the captive breeding of these species.
 - (e) To federal, state, and local authorities who need to know who is permitted to receive and rehabilitate sick, orphaned, and injured birds under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act; federally permitted rehabilitators; individuals seeking a permitted rehabilitator with whom to place a bird in need of care; and licensed veterinarians who receive, treat, or diagnose sick, orphaned, and injured birds.
 - (f) To the Department of Justice, or a court, adjudicative, or other administrative body or to a party in litigation before a court or adjudicative or administrative body, under certain circumstances.
 - (g) To the appropriate federal, state, tribal, local, or foreign governmental agency responsible for investigating, prosecuting, enforcing, or implementing statutes, rules, or licenses, when we become aware of a violation or potential violation of such statutes, rules, or licenses, or when we need to monitor activities associated with a permit or regulated use.
 - (h) To a congressional office in response to an inquiry to the office by the individual to whom the record pertains.
 - (i) To the General Accounting Office or Congress when the information is required for the evaluation of the permit programs.
 - (j) To provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the FWS.
- 5. For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.
- 6. The public reporting burden on the applicant for information collection varies depending on the activity for which a permit is requested. The relevant burden for an eagle take application is 16 hours for the standard permit and 40 hours for the programmatic permit. This burden estimate includes time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. You may direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street, NW, Washington D.C. 20240.

Freedom of Information Act - Notice

For organizations, businesses, or individuals operating as a business (i.e., permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page and must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].

Application Processing Fee

The fee to process an eagle take permit application is \$500.00 for the standard permit application and \$1,000 for the programmatic permit application. This fee applies to new permit applications and permit renewals. The fee to process a substantive amendment to an existing valid standard permit is \$150.00. For an existing valid programmatic permit, the amendment processing fee is \$500. Substantive amendments are those that pertain to the purpose and conditions of the permit and are not purely administrative. Administrative changes, such as updating name and address information, are required under 50 CFR 13.23(c), and such amendments do not require a fee. Checks should be made payable to AU.S. Fish and Wildlife Service.® The fee does not guarantee the issuance of a permit. It will not be refunded regardless of whether a permit is issued, abandoned, or denied. We will not refund any application fee under any circumstances if we have processed the application. However, we may return the application fee if you withdraw the application before we have significantly processed it. (50 CFR 13.11(d))

The application fee does not apply to any federal, tribal, state, or local government agency or to any individual or institution acting on behalf of such agency for the proposed activities.



U.S. Fish & Wildlife Service

Migratory Bird Regional Permit Offices

FWS REGION	AREA OF RESPONSIBILITY	MAILING ADDRESS	CONTACT INFORMATION
Region 1	Hawaii, Idaho, Oregon, Washington	911 N.E. 11th Avenue Portland, OR 97232-4181	Tel. (503) 872-2715 Fax (503) 231-2019 Email <i>permitsR1MB@fws.gov</i>
Region 2	Arizona, New Mexico, Oklahoma, Texas	P.O. Box 709 Albuquerque, NM 87103	Tel. (505) 248-7882 Fax (505) 248-7885 Email <i>permitsR2MB@fws.gov</i>
Region 3	Iowa, Illinois, Indiana, Minnesota, Missouri, Michigan, Ohio, Wisconsin	One Federal Drive Fort Snelling, MN 55111	Tel. (612) 713-5436 Fax (612) 713-5393 Email <i>permitsR3MB@fws.gov</i>
Region 4	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virgin Islands, Puerto Rico	P.O. Box 49208 Atlanta, GA 30359	Tel. (404) 679-7070 Fax (404) 679-4180 Email <i>permitsR4MB@fws.gov</i>
Region 5	Connecticut, District of Columbia, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia	P.O. Box 779 Hadley, MA 01035-0779	Tel. (413) 253-8643 Fax (413) 253-8424 Email <i>permitsR5MB@fws.gov</i>
Region 6	Colorado, Kansas, Montana, North Dakota, Nebraska, South Dakota, Utah, Wyoming	P.O. Box 25486 DFC(60154) Denver, CO 80225-0486	Tel. (303) 236-8171 Fax (303) 236-8017 Email <i>permitsR6MB@fws.gov</i>
Region 7	Alaska	1011 E. Tudor Road (MS-201) Anchorage, AK 99503	Tel. (907) 786-3693 Fax (907) 786-3641 Email <i>permitsR7MB@fws.gov</i>
Region 8	California, Nevada	2800 Cottage Way Sacramento, CA 95825	Tel. (916) 414-6464 Fax (916) 414-6486 Email <i>permitsR8MB@fws.gov</i>